

12 March 1973

MEMORANDUM FOR THE RECORD

SUBJECT: *9 Mar*,  
9 March Meeting of ICRC

1. The Interagency Classification Review Committee met at 10:00 a.m. on 9 March. Mr. David Young was not present. Mr. J. Fred Buzhardt was not present and Mr. Bob Andrews represented DoD.

2. Mr. Eisenhower announced that the day before he and Mr. Tufaro had met with some 20 to 25 members of the Associated Press at the Archives with Mr. Rhoads as their host. They discussed the progress under E.O. 11652. Mr. Eisenhower felt the AP representatives in general thought things were going rather well. The AP representatives did say that the 10-year rule with respect to documents now in existence is too severe. One AP representative said he understood the overall problem better than he had before. Mr. Eisenhower noted that one AP representative present, Mr. Arrowsmith, is a close personal friend of Eisenhower's, which fact may have contributed to the AP attitude. It was mentioned also that the meeting was arranged at Mr. Klein's suggestion.

3. The January minutes were approved.

4. Mr. Houston announced the substance of the Schlesinger-to-Ehrlichman letter concerning the AP appeal. He gave Mr. Eisenhower a copy of the letter and in effect withdrew the AP letter from ICRC consideration. He told Mr. Eisenhower that he was by no means confident that we would be able to satisfy the AP but we thought it worth trying. He promised to furnish Mr. Tufaro with a memorandum on the matter which will include some indication of timing.

5. Mr. Brower of State brought up the problem of the application of the automatic-declassification-after-30-years rule as it applies to

foreign-derived information. He said the standard rule in diplomatic usage is for declassification after 50 years. Our 30-year rule is particularly difficult because in some instances it would make available in the U.S. foreign-derived information which would not be available in the country of origin. He noted also at least a partial conflict within E.O. 11652 between the 30-year rule and the requirement that U.S. handling of foreign-derived information be given protection equivalent to that of the country of origin. Mr. Rhoads said that, to the contrary, Britain and Canada have been applying a 28-year rule with respect to World War II documents. Mr. Brower disputed this, noting that although Britain and Canada may have been authorizing our Archivist to declassify WW II documents now (28 years), Britain's basic standard for diplomatic usage is 50 years. Further, Britain has a 70-year rule with respect to intelligence documents. Mr. Houston noted that in some cases the mere fact of CIA liaison with foreign intelligence services is classified and requires protection. Mr. Eisenhower asserted that the U.S. of course cannot unilaterally release foreign intelligence. Mr. Tufaro inquired whether the U.S. could contact our major foreign government friends to ask for guidelines on 30-year declassification. Mr. Brower was seeking some solution to the problem either by a Committee interpretation of the Executive Order or perhaps by amendment. Mr. Andrews opted for a solution by interpretation to which Mr. Brower and Mr. Houston agreed. All this discussion related essentially to foreign-furnished information which becomes part of U.S. documents. Use and release of foreign documents of course are governed by the classification and protection arrangements imposed by the originating government. The Justice representative was inclined to propose an amendment. Mr. Eisenhower noted that this problem was discussed at the meeting the previous day with the AP. He suggested that a note might be sent to the White House calling attention to the problem. (He said in this connection that usually after these meetings "we" send a report to the White House. The Committee has never seen such a report. Probably, this means the White House members and staff of the Committee report to the White House on the performance of the departments.) It was decided to refer this problem to a working group composed of Mr. Tufaro and representatives of State, Archives and CIA. During the discussion of this item, Mr. Eisenhower noted that the White House thinks very highly of the Executive Order and presumably he meant the White House would be reluctant to amend.

6. Members were invited to submit written comments on the proposed progress reports. It was noted that we should be aware that the report would become public and it should be worded accordingly.

7. The Committee then considered the agenda item of whether several documents ought to be published in the Federal Register, namely, the ICRC appeals procedures, the data index instructions and the report forms instructions. Before turning over to Tufaro the discussion of the necessity or desirability of publication, Mr. Eisenhower first stated his understanding that all departments except CIA had agreed to the reports and instructions. Mr. Andrews said that DoD had not concurred and, to the contrary, had submitted comments on two occasions. A general discussion ensued. DoD did not want to require departments to furnish to the ICRC the names of employees who commit classification abuses. Mr. Houston said this was CIA's main objection. Mr. Vinciguerra said AEC could furnish the names but he did not see why the Committee needed them. Mr. Eisenhower said he thought the Committee would not need the names. Mr. Tufaro said he did not think the Committee wanted the names. At this stage Mr. Eisenhower said he owed Mr. Houston an apology. He had thought all departments except CIA had agreed. It was agreed that the report forms would not require that names be submitted. DoD urged that only recurring violations be reported and only after investigation. (I think the desire to report violations only after investigation is in keeping with our suggestion that reports should concern themselves only with violations as determined by departmental committees.) Mr. Andrews noted that the Department has some two and a half million personnel and it is virtually out of the question to report every violation. Mr. Eisenhower said we were back to the drawing board on this item. Mr. Tufaro is to get together with DoD and CIA on this. It is not clear to me whether Mr. Eisenhower is ordering all report forms back to the drawing board or only the one concerning classification abuses. Mr. Andrews indicated DoD is now doing feasibility studies directed, I believe, to the data index matter, but this also is not clear. The Committee agreed that the ICRC appeals procedures will be published in the Federal Register, the other two documents will not be. Further, publication of the procedures papers will have to await resolution of the CIA contention that ICRC should not have appeal authority with respect to intelligence sources and methods.

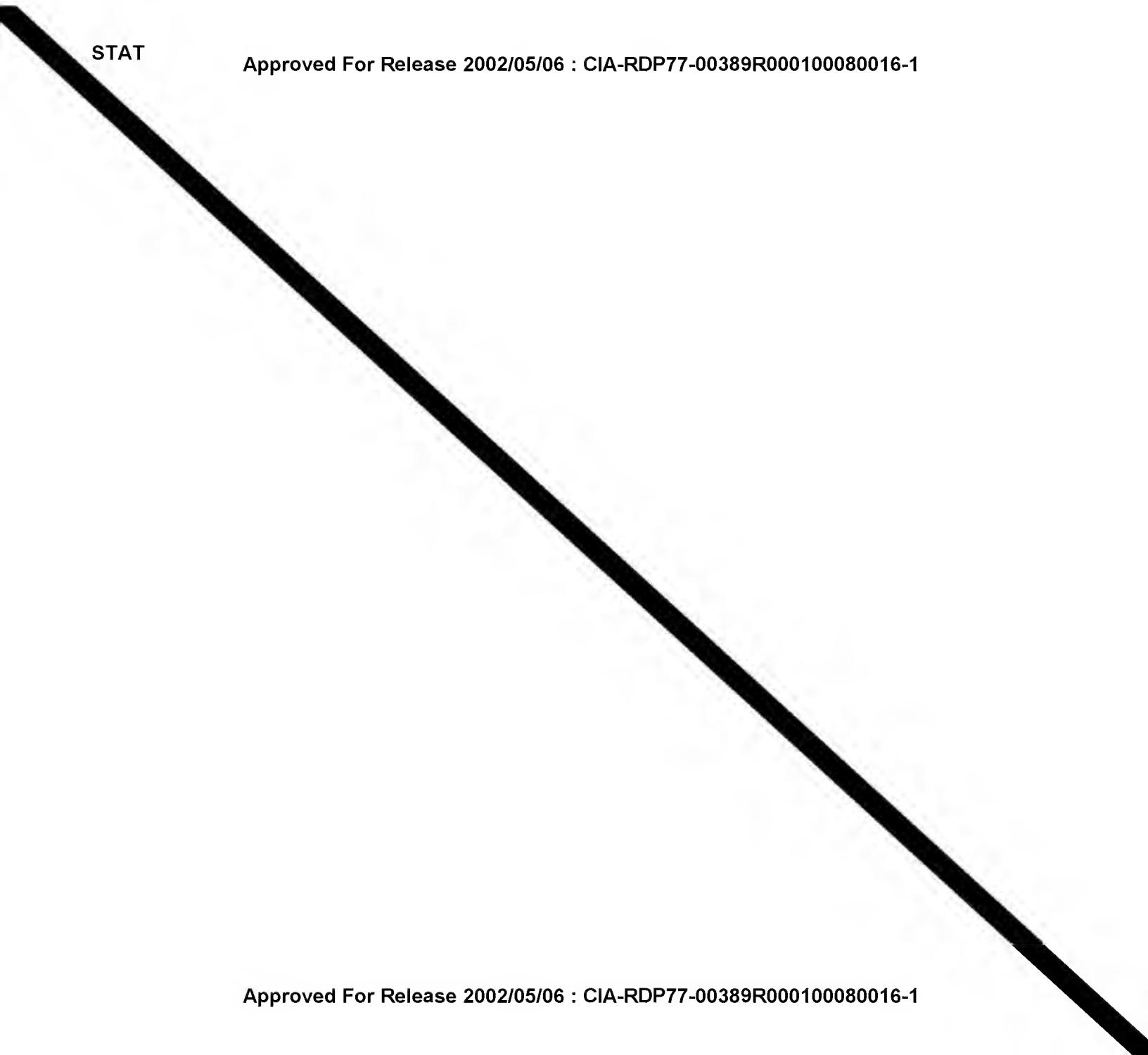
8. The Committee agreed to item 5 of the agenda that all World War II documents accessioned into the National Archives and originated prior to 1 January 1946 be downgraded to Secret in order to facilitate the WW II declassification project. Mr. Tufaro will send a note to all departments to the effect that the Committee has no objection to such action by the departments.

STATINTL

Associate General Counsel

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